



CITY OF ARCHDALE

CITY COUNCIL

MEETING DATE: February 22, 2022

SUBJECT: Adoption of Conflict of Interest Policy.

RECOMMENDATIONS OR COMMENTS: When spending Federal and State awarded funds, local governments are required to adopt policies governing conflicts of interest. Staff have developed a singular Conflict of Interest Policy, as proposed, which will meet both Federal (2 C.F.R. 200.318(c)) and State (NCGS 160D-109) requirements. A Conflict of Interest Policy will need to be adopted before the City commits to further expenditures of American Rescue Plan funds or State Capital Infrastructure Fund (SCIF) dollars which were appropriated as part of the adopted state budget.

Staff recommends adoption of the updated Conflict of Interest Policy.

SUMMARY OF ATTACHED INFORMATION: Proposed Conflict of Interest Policy.

ATTACHMENTS: ☒ YES ☐ NO



CONFLICT OF INTEREST POLICY

Purpose

The purpose of the following policy and procedures is to prevent the personal interest of Governing Board members and City staff from interfering with the performance of their duties to the City, or resulting in personal financial, professional, and/or political gain on the part of such persons at the expense of the City.

This policy is written to establish conflicts of interest guidelines that meet or exceed the requirements under state law and local policy when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects, including procurements paid for in part or wholly by federal funds and required under 2 C.F.R 200.318(c)(1).

Definitions

- 1) Conflict of Interest (also Conflict) means a conflict, or the appearance of a conflict between the private interests and official responsibilities of a person in a position of trust. Persons in a position of trust include staff members, officers, and City Council of the City of Archdale.
- 2) Governing Board (also board) means the Archdale City Council.
- 3) Board Member means an individual member of the governing board.
- 4) Staff member means a person who receives all or part of their income from the payroll of the City of Archdale.

Policy

This policy applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for by the City of Archdale, including payments made in part or wholly with state or federal financial assistance (direct or reimbursed). This policy also applies to any subrecipient of the funds.

The employee responsible for managing the state or federal assistance award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all employees, officers, and agents, including subrecipients, of the requirements of this policy and any additional prohibitions or requirements.

Conflicts of Interest

- 1) In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of the City may participate directly or indirectly in the selection, award, or administration of a contract supported by the state or federal award if they have a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties have a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

- a) the employee, officer, or agent involved in the selection, award, or administration of a contract;
- b) any member of their immediate family;
- c) their partner;
- d) an organization which employs or is about to employ any of these parties; or
- e) an organization in which any of the above is an officer or director.

2) Full disclosure, by notice in writing, shall be made by the interested parties to the full City Council in all conflict-of-interest matters. Following full disclosure of a possible conflict of interest or any condition listed above, the governing board shall determine whether a conflict of interest exists and, if so, the board shall vote to authorize or reject the transaction and/or condition. An involved board member, officer, or staff member shall not participate in any discussion or debate of the governing board, or of any committee thereof, in which the subject of discussion is a contract, transaction, or situation in which there may be a conflict of interest.

3) Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to their immediate supervisor. Any such conflict shall be disclosed in writing to the state or federal award agency or pass-through entity in accordance with applicable state or federal awarding agency policy. They may not participate in discussion or debate, nor may they partake in the selection, award, or administration of a procurement transaction where federal or state funds are used.

Violation

4) Existence of any of the above-listed conditions shall render a contract or a transaction voidable unless full disclosure of personal interest is made in writing to the governing board and such transaction was approved by the board in full knowledge of such interest.

5) The disinterested board members are authorized to impose by majority vote other reasonable sanctions as necessary to recover associated costs against a board member, officer, or staff member for failure to disclose a conflict of interest as described in Paragraph 1 or for any appearance of a conflict.

6) Appeal from sanctions imposed pursuant to Paragraph 4 and 5 above shall be prescribed by law in those courts of the State of North Carolina with jurisdiction over both the parties and the subject matter of the appeal.

7) In the event the City of Archdale has incurred costs or attorney fees because of legal action, litigation, or appeal brought by or on behalf of an interested board member or staff member due to a conflict of interest and consequent sanctions and in the event that City of Archdale prevails in such legal action, litigation, or appeal, the City of Archdale shall be entitled to recover all of its costs and attorney fees from the unsuccessful party.

8) Employees violating this policy will be subject to disciplinary action up to and including termination. Contractors violating this policy will have their contract(s) cancelled and may not be eligible for future contract awards.

Acknowledgement

A copy of this policy shall be given to each Council member and management-level staff member upon commencement of such person's relationship with the City. Each Council member and staff member shall disclose any interests that may give rise to conflict and sign and date this form. Failure to sign does not nullify the policy. It is the responsibility of the Council member or staff member to contact the City's Human Resources Department and complete a new Conflict of Interest Policy form to report any changes and/or additions that may subsequently occur.

Signed:

(signature)

(name printed)

(date)

Use the section below to disclose any interest that may give rise to conflict:

CHANGE SUMMARY

2/22/22 – Original Adoption